IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1206 of 2007
Date of Decision: 6.3.2007

Amar Singh ...Petitioner

Versus

Parveen Kumar ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Mani Ram Verma, Advocate, for the petitioner.

HEMANT GUPTA, J.

The tenant is in revision aggrieved against the orders passed by the authorities below, whereby the petitioner has been ordered to be evicted on the ground that the demised premises are required for bona-fide use and occupation of the landlord.

The respondent-landlord, a practicing Advocate on taxation side, sought the ejectment of the petitioner by filing a petition on 18.5.2000 on the ground that he has purchased the demised premises on 5.11.1999 and that the accommodation in the father's house of the landlord is not sufficient. It was also pleaded that the wife of the landlord and his mother are not having good relations and that the father of the landlord is an Advocate and is having a separate office. In the house of his father, there are four rooms. Two rooms on the ground floor are used as an office and the other two rooms are used for living purposes and thus, two rooms are not sufficient for the use of the family as another brother of the landlord is living with him and is of marriageable age. Apart from the said fact, the landlord has a sister, who is married and keeps on visiting them. The

landlord himself is an Advocate and is having an office in Pichla Bazaar, Bhiwani. One brother of the landlord is residing at Guahati and he comes to Bhiwani and resides in the house of father of the landlord and thus, the accommodation for the office and for residence of the landlord is not sufficient. The tenant in reply pointed out that the landlord is having four ancestral properties bearing Municipal Nos. S-612, S-613, S-614 and R-588 and therefore, the accommodation is more than sufficient for the use of the landlord and his family members.

Both the Courts have found that the accommodation S-613 belongs to the father of the respondent, whereas the other properties belong to the other members of the family and are not suitable for the use of the office and residence of the landlord.

Learned counsel for the petitioner has vehemently argued that in the property belonging to the father and mother, the respondent has a right and, therefore, he cannot seek ejectment of the tenant. However, the said argument is not tenable. So far as the property belonging to father and mother is concerned, the son can use the premises during such time, the son is permitted to stay in the premises. The property No. R-612 belongs to the mother of the landlord. The said property consists of one room and a store on the ground floor and one store on the upper floor, but there is no kitchen nor any bathroom though a toilet exists on the upper portion. The landlord cannot claim possession thereof as a matter of right.

Another property i.e. S-614, is a gher having two latrines and a temporary shed. The same cannot be said to be fit for human habitation for the petitioner, who has three children and wife. The property bearing Municipal No. R-588 consists of a room. The said property belongs

to the grand-father of the landlord, which is in dilapidated condition and not fit for human habitation.

It is wholly immaterial whether there are four or five rooms in the house of the father of the respondent or that only one room is being used as an office. The fact remains that one of the unmarried brothers of the respondent is residing with his father. Apart from the above, married brother and sister of the respondent are also expected to visit their parents. Therefore, the respondent with his family cannot be compelled to share the accommodation owned and possessed by his father. The father and son both are Advocates and therefore, it is expected by both of them to maintain separate offices and in fact, both of them are maintaining separate offices.

The respondent has purchased a property for his own use and occupation and his family members. The respondent is an Advocate and is having a separate office from his father. The respondent has a wife and three children. Therefore, the eviction sought from the premises in dispute cannot be said to be lacking in any bona-fide as the wish of the landlord that he requires the premises in dispute, cannot be said to be only a desire.

Therefore, I do not find any patent illegality or irregularity in the findings recorded by the authorities below holding that the demised premises are required for bona-fide use and occupation of the landlord and his family members.

Dismissed.

6.3.2007 (HEMANT GUPTA)
ds JUDGE